THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.27715 of 1997

Dated:28.2.2007

Between
K.Kondal Rao

.....Petitioner

and

1. The Labour Court, Godavarikhani
Rep., by its Presiding Officer,
Karimnagar and another.

...Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.27715 of 1997

ORDER:

This writ petition is filed against an Award made in I.D.No.708 of 1989 dated 24.1.1991 whereunder the claim petition filed by the petitioner under Section 2-A (2) of the Industrial Disputes Act, 1947 (for short 'the Act') was dismissed.

It appears that the petitioner was appointed as a Conductor in the 2nd respondent-Corporation and attached to the Asifabad Depot. While the petitioner was conducting the bus on the route from Venkidi to Asifabad on 11.1.1989, a surprise check was exercised by the officials at about 13.30 hours at stage No.2 and they found certain cash and ticket irregularities and issued a

charge sheet framing the following charges.

> " 1. For having violated the rule, issue and start.
> 2. For having collected Rs.1-00 each from 10 passengers in individuals and batches at this boarding point itself, and failed to issue tickets who boarded the bus at Asifabad, and found alighting at Ippala Navagoan ex-stages 1 to 2.
> 3. For having failed to collector fare and issue tickets to a batch of 3 passengers found traveling without tickets who boarded the bus at Asifabad and bound for Bendeva, Ex-stages 1 to 3.
> 4. For having failed to close the tray numbers in SR against stage No.2.
> 5. For having worked without MTD-141 card."

After completing the formalities and conducting a domestic enquiry into the matter, the petitioner was removed from service by an order dated 16.5.1989. The appeal filed by the petitioner against the said removal order, came to be rejected. Thereafter, he raised a dispute before the Labour Court under Section 2-A (2) of the Act.

No oral evidence was let in by either parties. On behalf of the 2nd respondent-

Corporation, Exs.M1 to 15 were marked. On behalf of the petitioner-workman no documents were marked.

After a detailed consideration of the entire evidence on record, the Labour Court came to the conclusion that no ground is made out by the petitioner to interfere with the order of removal passed by the respondent-Corporation and therefore, it rejected the claim petition. Aggrieved by the same, the present writ petition is filed.

Learned counsel for the petitioner strenuously contended that 10 passengers under Charge No.2 boarded the bus in between stage Nos.1 and 2, and they were bound to stage No.3, the checking took place at stage No.2 and the petitioner himself admitted that he had collected fare from 10 individuals and was in the process of issuing tickets in the mean while the check was conducted. There was hardly any time at the disposal of the petitioner for issuing the tickets

to the passengers. Insofar as the passengers under charge No.3 are concerned, neither he has collected the amounts nor issued the tickets and further he has not closed the SR at stage No.2. This itself shows that the petitioner had no intention of defrauding the revenues of the Corporation. Apart from this, at the time of check, there were 67 passengers in the bus and the petitioner had issued 56 tickets to 56 passengers. Since the passengers under charge boarded the bus in between stages 1 and 2, he was in the process of issuing tickets, therefore, the same ought not to have been taken seriously by the Corporation. It is further contended that the Labour Court also failed to notice this fact and also the fact that the petitioner had no past record of such nature and his past record was clean and therefore, the Labour Court erred in rejecting the case of the petitioner without granting any relief.

Per contra, the learned counsel for the respondent-Corporation supported the award

passed by the Labour Court and strenuously contended that absolutely no ground is made out calling for interference of this court under Article 226 of Constitution of India and the Writ Petition is liable to be dismissed.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned award and other material made available on record.

The facts are not much in dispute. Admittedly, there were 67 passengers at the time of check at stage No.2. The passengers under charge No.2 boarded the bus at half the way and though the petitioner collected the fare, he was in the process of issuing tickets and in the mean while check had taken place and the distance between the place of boarding and the place of check was only ½ KM and admittedly the petitioner has not closed the SR by then. Had he closed the SR at stage No.2, probably the charges leveled

against him could have become true.

In view of the facts that the SR was not closed at stage No.2 and the petitioner was under process of issuing tickets, and there was heavy rush of 67 passengers in the bus, the charges framed under charge Nos. 2 and 3 could not have been taken so seriously and the order of removal from service could not have been upheld by the Labour Court, particularly, in the absence of any past record of such nature. In fact, in the counter filed before the Labour Court or before this Court, the respondents have not asserted that the petitioner was not having clean record.

The petitioner had 3 years of clean service, before he was removed from service. Under those circumstances, I am of the opinion that the Labour Court has made a very pedantic approach while exercising its powers vested under Section 11-A of the Industrial Disputes Act, 1947. Since the past conduct of the petitioner was clean and the nature of

allegations made are very common in conducting the bus, I deem it appropriate to set aside the impugned order passed by the Labour Court.

Accordingly, the writ petition is allowed and the impugned order is set aside and the respondent-Corporation is directed to reinstate the petitioner as a fresh conductor. It is further made clear that the petitioner is not entitled for reckoning his past service for any other purpose.

Writ petition is allowed to the extent indicated above. No costs.

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28-02-2007

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